

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of
MQMF 1313 L STREET LLC

BZA Application No:
ANC 2F05

STATEMENT OF THE APPLICANT

This application is made by MQMF 1313 L STREET LLC (the “**Applicant**”) to the Board of Zoning Adjustment (“**Board**”) for special exception relief under Subtitle I § 205.5 of the Zoning Regulations for rear yard requirements and for variance relief from the strict requirements for minimum court width under Subtitle I § 207.1 to permit redevelopment of the property located at 1313 L Street NW (Square 247, Lot 94) (the “**Property**”) in the D-4-R zone. The Applicant proposes to redevelop the existing office building and convert the Property to multifamily residential use (the “**Project**”). Aside from the relief requested, the Project will conform to the Zoning Regulations in all other respects.

I. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X §§ 900.2 and 1000.1 of the Zoning Regulations.

II. DESCRIPTION OF THE PROPERTY, SURROUNDING AREA, AND PROJECT

The Property consists of approximately 18,245 square feet of land area and is located in Downtown D.C., one block north of Franklin Square and one block south of Thomas Circle. The Property is located in Square 247, which is bounded by L Street NW to the south, 14th Street NW to the west, Massachusetts Avenue NW to the north, and 13th Street NW to the east. The surrounding area is characterized primarily by large commercial office buildings with ground floor retail, hotels, and multifamily apartment buildings. The adjacent lot to the east of the Property, 1307 L Street NW, is occupied by an academic center for New York University (the “**NYU**”

Building”); across the public alley to the west of the Property is an office building occupied by CoStar Group; across the public alley to the north (rear) of the Property is the Midtown condominiums, a multifamily residential building located at 1312 Massachusetts Avenue NW.

As shown on the Zoning Map attached as Exhibit A, the Property is zoned D-4-R and is located in the Massachusetts Avenue Corridor and Mount Vernon Square Sub-Area.¹ The surrounding area consists of a mix of properties zoned D-4-R, D-6, and D-1-R, with properties further north also zoned MU-2, RA-5, and RA-4, among others.

The Property is currently improved with a commercial office building constructed in 1984 with a height of 89 feet, ten (10) inches and approximately 3.96 FAR. The Property’s current D-4-R zoning strongly encourages residential development by imposing no limit on residential FAR, instead permitting the maximum FAR achievable within the permitted height and bulk for residential use, and generally requiring that a minimum of 4.5 FAR of residential development be provided or otherwise offset with the use of density credits.

As shown in the architectural plans (the “**Plans**”) attached as Exhibit B, the Applicant proposes to renovate, redesign, and construct an addition to the existing structure. The majority of the existing structure will be demolished, with a small portion being retained, as shown on the Plans. The resulting building will be a multifamily residential building with approximately 222 units. The Project will be 110 feet in height, as permitted, and have an FAR of approximately 9.62. The Project will maintain the existing 61 below grade vehicle parking spaces,² and will add bicycle parking facilities including 74 long-term bicycle spaces, as required. The Project will increase the size of the existing loading facilities, which do not meet current requirements,

¹ The Property is not located on a designated street in the Sub-Area.

² As shown on the Plans, the Project will include twelve (12) parking spaces that are partially located within below-grade vaults in public space and thus do not count towards the Project’s parking for zoning purposes.

providing a standard loading berth, service/delivery space, and loading platform, as required. As shown in the Plans, the Property's below-grade parking will continue to be accessed from the public alley to the west of the Property, with loading facilities accessed from the public alley to the north (rear) of the building.

The Project will include two courts – one larger central court and one smaller court on the southeast corner of the building facing L Street, adjacent to the NYU Building. The smaller front corner court is being provided in order to accommodate the existing at-risk windows that wrap around the southwest corner of the NYU Building, continuing north along the Property's eastern lot line. In preparing plans for the new building, the Applicant met with representatives of NYU to discuss the Project, and they requested that a court be incorporated into the design to accommodate the corner glazing condition. As discussed in detail below, the Applicant is seeking variance relief from the minimum width requirements for the smaller southeast corner court. The larger interior court will comply with minimum court requirements. The Applicant is also seeking special exception relief for the proposed rear yard in order to construct the building to the rear property line, which allows the Project to shift the building mass from the center of the site to the rear in order to accommodate the proposed central court and achieve a more functional unit configuration that will result in better overall residents with greater access to light. Aside from the requested relief for the southeast corner court and rear yard, the Project will comply with all applicable development standards.

III. THE APPLICATION SATISFIES THE CRITERIA FOR THE REQUESTED RELIEF

The Applicant requests two areas of relief: (1) special exception relief pursuant to Subtitle I § 205.5 from the minimum rear yard requirements to allow the Project to provide a rear yard of

15 feet, as measured to the centerline of the rear alley,³ where a minimum rear yard of 22 feet, eleven (11) inches is required; and (2) area variance relief from the minimum court width requirements of Subtitle I § 207.1 to allow a court width of 15 feet where a minimum width of approximately 36 feet, eight (8) inches is required.

As discussed below, the Application meets all applicable standards for the relief requested.

A. Special Exception Under Subtitle I § 205.5 for Minimum Rear Yard Requirements.

Based on the proposed height of 110 feet, the Project is required to provide a minimum rear yard of approximately 22 feet, eleven (11) inches, beginning at 25 feet above grade. *See* 11-I DCMR §§ 205.1 and 205.2(a). The existing building provides a rear yard of 18 feet, six (6) inches, measured to the centerline of the 30-foot alley to the north of the Property. The Project is proposed to be built to the rear lot line and thus provides a rear yard of 15 feet, measured to the centerline of the alley.

Under Subtitle I § 205.5, the Board may waive the rear yard requirements as a special exception pursuant to Subtitle X and subject to specific conditions, as addressed in detail below. Under Subtitle X § 901.2, in order to obtain special exception relief, an applicant must show that the requested relief will be in harmony with the intent and purpose of the Zoning Regulations and Zoning Maps and will not adversely affect neighboring properties. The application meets both the specific conditions of Subtitle I § 205.5 and the general standards for special exception relief under Subtitle X.

³ The rear yard may be measured to the centerline of the alley pursuant to Subtitle I § 205.3 of the Zoning Regulations.

1. *No window to a residence use shall be located within forty feet (40 ft.) of another facing building. (I § 205.5(a))*

As shown on Sheet A-4 of the Plans, the rear windows of the proposed building will be a minimum of 75 feet, nine (9) inches from the face of the main portion of the building to the north at 1312 Massachusetts Avenue NW, and thus the Project complies with this requirement.⁴

2. *No window to an office use shall be located within thirty feet (30 ft.) of another facing office window, nor eighteen feet (18 ft.) in front of a facing blank wall. (I § 205.5(b))*

This provision is inapplicable here because the Project does not propose any office use.

3. *A greater distance may be required between windows in a facing building than the minimum prescribed in (a) or (b) if necessary to provide adequate light and privacy to habitable rooms as determined by the angle of sight lines and the distance of penetration of sight lines into such habitable rooms. (I § 205.5(c))*

As shown on Sheet A-4 of the Plans, the rear of the proposed building will be located a distance ranging from 75 feet, nine (9) inches to 99 feet, nine (9) inches from the residential units to the north at 1312 Massachusetts Avenue NW, well in excess of the minimum 40 feet required. Accordingly, a greater distance than required is already provided by the Project, and additional setback is not necessary in this case.

4. *The building shall provide for adequate off-street service functions, including parking and loading areas and access points. (I § 205.5(d))*

The Project, including the proposed 15-foot rear yard, will not interfere with the off-street service functions for parking, loading, and access. As noted above, the Property's below-grade parking will continue to be accessed from the public alley to the west of the site, with loading facilities accessed from the public alley to the north (rear) of the building. The 30-foot alley to the

⁴ The Applicant met with the Zoning Administrator prior to filing this Application to review the Project design and to confirm the application of Subtitle I § 205.5 to the Project and that a special exception is the appropriate relief for the proposed rear yard.

rear of the Property is adequate to continue accommodating loading activities for the building, and the Project will provide all required loading facilities.

5. *The Relief Requested Is in Harmony with the Intent and Purpose of the Zoning Regulations and Zoning Maps and Will Not Adversely Affect Neighboring Properties.*

The Project will further the intent and objectives of the Zoning Regulations applicable to the Property and will not result in any adverse effects on neighboring properties. The purpose of the D-4-R zone, in which the Property is located, is to “promote the development of high-density residential and mixed-use neighborhoods” 11-I DCMR § 530.1. As noted above, the development standards of this zone strongly encourage residential development by requiring that a minimum 4.5 FAR of residential use be provided or offset by density credits and by imposing no maximum FAR limit for such use. To this end, the Project will create a new high-quality multifamily residential development on the Property and will provide an attractive building design that will contribute to the neighborhood and is consistent with the other nearby high-density development, which primarily characterizes the surrounding area.

In addition, the Project and requested rear yard relief will not result in any negative impact on surrounding properties. The existing building provides a rear yard of 18 feet, six (6) inches, and the Project, with a proposed rear yard of 15 feet, will only reduce the existing rear yard condition by three (3) feet, six (6) inches. This adjustment is minimal and inconsequential in this case, particularly in light of the substantial separation between the Project and the residential units in the building located to the north of the Property at 1312 Massachusetts Avenue NW, which separation ranges from 75 feet, nine (9) inches to 99 feet, nine (9) inches. The 15-foot rear yard will not have any impact on parking access and loading operations for the Property, which will

continue to be adequately accommodated from the public alleys to the west and north of the site, respectively.

Accordingly, the requested relief is in harmony with the intent of the Zoning Regulations and will not adversely affect neighboring properties. For all the above reasons, the Project meets the standard for the requested rear yard relief.

A. Area Variance from the Minimum Court Width Requirement Under Subtitle I § 207.1.

As discussed above, the Project proposes a small open court located on the southeast corner of the building facing L Street, abutting the NYU Building. Based on a height of 110 feet, the minimum width required for the proposed court is 36 feet, eight (8) inches under Subtitle I § 207.1. As shown on the Plans, the southeast corner court will have a proposed width of 15 feet.

In order to obtain area variance relief, an applicant must demonstrate that: (i) the property is affected by an exceptional or extraordinary situation or condition, (ii) the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and (iii) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose, or integrity of the Zone Plan. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). Here, the application satisfies all three standards for the variance relief requested.

1. The Property Is Affected by an Exceptional Situation or Condition.

Here, the Property is affected by an exceptional situation due to the existing corner glazing condition of the adjacent NYU Building abutting the Property to the east. As shown in the context images on Sheet A-6 of the Plans, the windows of the NYU Building wrap around that building's southwest corner creating an at-risk condition along the property line between the NYU Building and the Project. Moreover, the nature and particular design of the adjacent at-risk glazing, in

relation to the Property, is exceedingly unusual. Certain buildings are occasionally designed to include a nominal amount of at-risk fenestration, typically thinly dispersed across a building's façade, with such windows intentionally limited in number, utility, and prominence in recognition of the possibility that they may be obscured or built over by adjacent development in the future. However, here, the at-risk condition exhibited along the Property's southeast corner is unique in that the wrap-around glazing on the NYU Building, rather than being minimal and muted as is typically the case, instead forms part of the building's primary street presentation as a conspicuous component of the façade's design contour and profile, running the majority of the building's vertical length from the ground all the way to the top of the main building roof. This particular at-risk condition along the Property's east boundary is extremely unusual and constitutes an exceptional situation.

2. *Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.*

To satisfy the second element for an area variance standard, the Applicant must demonstrate "practical difficulty." The D.C. Court of Appeals has held that an applicant must demonstrate that "compliance with the area restriction would be unnecessarily burdensome" and that the practical difficulty is "unique to the particular property." *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). The Court of Appeals has held that the "nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case." *Id.* at 1171.

Due to the unique conditions described above, the Property would face practical difficulties if required to provide a court complying with the full minimum width of 36 feet, eight (8) inches prescribed by the Zoning Regulations. The proposed court, with a width of 15 feet, is able to provide a moderate but effective setback from the adjacent corner glazing condition on

the NYU Building in order to accommodate the at-risk glazing and provide adequate light and air to the units located at the Project's southeast corner without causing unduly negative effects on the Project's unit configuration or interior unit layouts. However, requiring the Applicant to widen the proposed court by an additional 21 feet, eight (8) inches to comply with minimum requirements would unnecessarily consume a substantial amount of space from the units located along the Project's southeast façade, making it much more difficult to achieve workable and efficient layouts for these units. Accordingly, while widening the front court would serve no obvious purpose, given that adequate light and air is afforded by the proposed design, doing so would be unduly burdensome as a result of the negative impacts on unit configuration and floor layouts.

In addition, from a public design perspective, requiring strict adherence to the minimum court width requirement would undermine urban planning best practices, which disfavor long spans of facade being set back from the street in high-density areas such as that in which the Property is located. Indeed, the Zoning Regulations for the D zones require buildings facing on designated primary streets and state-named avenues to be constructed with at 75% of the front building wall constructed within four (4) feet of the property line. *See* 11-I DCMR § 203.1. Although this requirement does not apply to the Project, since L Street is not a designated primary street, the front build-to requirement is still a desirable goal from a planning and design perspective, and a compliant court — which would create a 15-foot setback for a span of 36 feet, eight (8) inches or approximately 33% of the building's 111-foot, three (3)-inch façade — would not be consistent with this goal. Rather than contributing to the urban design in the area, the Project would contradict basic planning principles and frustrate the intent of the regulations.

For both the more practical reasons outlined above related to unit configuration and layout and broader issues regarding the consistency of the Project's design with the planning

goals and objectives of the Zoning Regulations, strict imposition of the minimum court width requirement is unnecessarily burdensome in this case and constitutes a practical difficulty under the variance standard.

3. *Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose, and Integrity of the Zone Plan.*

Finally, the Applicant must demonstrate that “granting the variance will do no harm to the public good or to the zone plan.” *Gilmartin*, 579 A.2d at 1167. Here, the requested variance can be granted without causing any adverse impact on the neighboring properties or to the zone plan.

As noted above, the proposed design will provide more than adequate light and air to the units proposed for the Project’s southeast façade. Further, the court as proposed will preserve the visibility of the NYU Building’s corner glazing, which is a positive design feature of the building and the block, contributing to the overall character of the surrounding neighborhood. Granting the requested relief will merely permit the proposed design adjustment to be accomplished without creating practical challenges for the Project in achieving efficient and functional interior floor layouts and without compelling a design that would frustrate underlying planning objectives, which aim to discourage large areas of front building setback in high-density areas. Accordingly, the proposed court will not harm the intent of the zone plan.

Accordingly, the requested relief will not result in any substantial detriment to the public good or impairment of the zone plan.

IV. CONCLUSION

For all of the above reasons, the Applicant has satisfied the standards for the requested variance relief in this case and requests approval for such relief.

Respectfully submitted,

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Lawrence Ferris